

AMENDED IN SENATE JULY 21, 1997

AMENDED IN SENATE JUNE 30, 1997

AMENDED IN ASSEMBLY APRIL 22, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1089

Introduced by Assembly Member Miller

February 27, 1997

An act to amend Sections 25244.14, 25244.15, 25244.16, 25244.18, 25244.19, 25244.20, 25244.21, 25244.22, and 25244.23 of, and to repeal Section 25244.24 of, the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1089, as amended, Miller. Hazardous waste: source reduction.

(1) Existing law, the Hazardous Waste Source Reduction and Management Review Act of 1989, requires specified generators of hazardous waste to maintain certain plans, reports, and summaries with regard to hazardous waste reduction practices. The act states that its purpose is to reduce the generation of hazardous waste by 5% per year from the years 1993 to 2000 and requires the Department of Toxic Substances Control to make specified recommendations to the Legislature by January 1, 2000, for a new annual goal. The act authorizes the department to request, from any generator subject to the act, a copy of the generator's hazardous waste management report, hazardous waste management

performance report summary, source reduction evaluation review and plan, and source reduction evaluation review and plan summary, and to make specified determinations concerning those plans, reports, and summaries. The act authorizes the department to impose specified civil penalties if the department determines, among other things, that a generator has failed to implement the measures included in the review and plan or plan summary. The act requires a generator subject to the act to prepare a specified progress report concerning the review and plan's implementation.

A violation of the act is a crime.

This bill would revise the act to delete the requirement that a generator subject to the act prepare a hazardous waste management performance report summary, and a source reduction evaluation review and plan summary. The bill would exclude from the act a generator whose hazardous waste generating activity consists solely of receiving offsite hazardous waste and generating residuals from that waste. The bill would authorize a unified program agency to request and review a generator's review and plan or report and impose civil penalties for a failure to submit a revised review and plan or report or to implement the review and plan measures. The bill would revise the information required to be included in the review and plan and in the report, thereby imposing a state-mandated local program by revising the definition of a crime. The bill would delete provisions requiring the preparation of a generator progress report and would instead require a summary progress report, as prescribed.

The bill would make related changes and delete obsolete provisions.

(2) The act requires the Director of Toxic Substances Control to prepare a biennial report regarding implementation of the act and to submit the report to the Governor and the Legislature.

This bill would delete the requirement that the report be submitted to the Governor and the Legislature.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs



mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25244.14 of the Health and
2 Safety Code is amended to read:

3 25244.14. For purposes of this article, the following
4 definitions apply:

5 (a) “Appropriate local agency” means a county, city,
6 or regional association that has adopted a hazardous waste
7 management plan pursuant to Article 3.5 (commencing
8 with Section 25135).

9 (b) “Hazardous waste management approaches”
10 means approaches, methods, and techniques of managing
11 the generation and handling of hazardous waste,
12 including source reduction, recycling, and the treatment
13 of hazardous waste.

14 (c) “Hazardous waste management performance
15 report” or “report” means the report required by
16 subdivision (b) of Section 25244.20 to document and
17 evaluate the results of hazardous waste management
18 practices.

19 (d) (1) “Source reduction” means one of the
20 following:

21 (A) Any action that causes a net reduction in the
22 generation of hazardous waste.

23 (B) Any action taken before the hazardous waste is
24 generated that results in a lessening of the properties
25 which cause it to be classified as a hazardous waste.

26 (2) “Source reduction” includes, but is not limited to,
27 all of the following:

28 (A) “Input change,” which means a change in raw
29 materials or feedstocks used in a production process or
30 operation so as to reduce, avoid, or eliminate the
31 generation of hazardous waste.

1 (B) “Operational improvement,” which means
2 improved site management so as to reduce, avoid, or
3 eliminate the generation of hazardous waste.

4 (C) “Production process change,” which means a
5 change in a process, method, or technique which is used
6 to produce a product or a desired result, including the
7 return of materials or their components, for reuse within
8 the existing processes or operations, so as to reduce, avoid,
9 or eliminate the generation of hazardous waste.

10 (D) “Product reformulation,” which means changes
11 in design, composition, or specifications of end products,
12 including product substitution, so as to reduce, avoid, or
13 eliminate the generation of hazardous waste.

14 (3) “Source reduction” does not include any of the
15 following:

16 (A) Actions taken after a hazardous waste is
17 generated.

18 (B) Actions that merely concentrate the constituents
19 of a hazardous waste to reduce its volume or that dilute
20 the hazardous waste to reduce its hazardous
21 characteristics.

22 (C) Actions that merely shift hazardous wastes from
23 one environmental medium to another environmental
24 medium.

25 (D) Treatment.

26 (e) “Source reduction evaluation review and plan” or
27 “review and plan” means a review conducted by the
28 generator of the processes, operations, and procedures in
29 use at a generator’s site, in accordance with the format
30 established by the department pursuant to subdivision
31 (a) of Section 25244.16, and that does both of the
32 following:

33 (1) Determines any alternatives to, or modifications
34 of, the generator’s processes, operations, and procedures
35 that may be implemented to reduce the amount of
36 hazardous waste generated.

37 (2) Includes a plan to document and implement
38 source reduction measures for the hazardous wastes
39 specified in paragraph (1) that are technically feasible

1 and economically practicable for the generator,
2 including a reasonable implementation schedule.

3 (f) “SIC Code” has the same meaning as defined in
4 Section 25501.

5 (g) “Hazardous waste,” “person,” “recycle,” and
6 “treatment” have the same meaning as defined in Article
7 2 (commencing with Section 25110).

8 SEC. 2. Section 25244.15 of the Health and Safety
9 Code is amended to read:

10 25244.15. (a) The department shall establish a
11 program for hazardous waste source reduction pursuant
12 to this article.

13 (b) The department shall coordinate the activities of
14 all state agencies with responsibilities and duties relating
15 to hazardous waste and shall promote coordinated efforts
16 to encourage the reduction of hazardous waste.
17 Coordination between the program and other relevant
18 state agencies and programs shall, to the fullest extent
19 possible, include joint planning processes and joint
20 research and studies.

21 (c) The department shall adopt regulations to carry
22 out this article.

23 (d) (1) Except as provided in paragraph (3), this
24 article applies only to generators who, by site, routinely
25 generate, through ongoing processes and operations,
26 more than 12,000 kilograms of hazardous waste in a
27 calendar year, or more than 12 kilograms of extremely
28 hazardous waste in a calendar year.

29 (2) The department shall adopt regulations to
30 establish procedures for exempting generators from the
31 requirements of this article where the department
32 determines that no source reduction opportunities exist
33 for the generator.

34 (3) Notwithstanding paragraph (1), this article does
35 not apply to any generator whose hazardous waste
36 generating activity consists solely of receiving offsite
37 hazardous wastes and generating residuals from the
38 processing of those hazardous wastes.

39 (e) It is the purpose of this article to reduce the
40 generation of hazardous waste in California by 5 percent

1 per year from the year 1993 to the year 2000. On or before
2 January 1, 2000, the department shall recommend to the
3 Legislature the adoption of a new annual waste reduction
4 goal.

5 SEC. 3. Section 25244.16 of the Health and Safety
6 Code is amended to read:

7 25244.16. The department shall do both of the
8 following:

9 (a) Adopt a format to be used by generators for
10 completing the review and plan required by Section
11 25244.19, and the report required by Section 25244.20.
12 The format shall include at least all of the factors the
13 generator is required to include in the review and plan
14 and the report. The department may include any other
15 factor determined by the department to be necessary to
16 carry out this article. The adoption of a format pursuant
17 to this subdivision is not subject to Chapter 3.5
18 (commencing with Section 11340) of Part 1 of Division 3
19 of Title 2 of the Government Code.

20 (b) Establish a data and information system to be used
21 by the department for developing the categories of
22 generators specified in Section 25244.18, and for
23 processing and evaluating the source reduction and other
24 hazardous waste management information submitted by
25 generators pursuant to Section 25244.18. In establishing
26 the data and information system, the department shall do
27 all of the following:

28 (1) Establish methods and procedures for
29 appropriately processing or managing hazardous waste
30 source reduction and management information.

31 (2) Use the data management expertise, resources,
32 and forms of already established environmental
33 protection programs, to the extent practicable.

34 (3) Establish computerized data retrieval and data
35 processing systems, including safeguards to protect trade
36 secrets designated pursuant to Section 25244.23.

37 (4) Identify additional data and information needs of
38 the program.

39 SEC. 4. Section 25244.18 of the Health and Safety
40 Code is amended to read:

1 25244.18. (a) On or before September 15, 1991, and
2 every two years thereafter, the department shall select at
3 least two categories of generators by SIC Code with
4 potential for source reduction, and, for each category,
5 shall do all of the following:

6 (1) Request that selected generators in the category
7 provide the department, on a timely basis, with a copy of
8 the generator's completed review and plan and with a
9 copy of the generator's completed report.

10 (2) Examine the review and plan and the report of
11 selected generators in the category.

12 (3) Ensure that the selected generators in that
13 category comply with Sections 25244.19 and 25244.20.

14 (4) Identify successful source reduction and other
15 hazardous waste management approaches employed by
16 generators in the category and disseminate information
17 concerning those approaches to generators within the
18 category.

19 (b) In carrying out subdivision (a), the department
20 shall not disseminate information determined to be a
21 trade secret pursuant to Section 25244.23.

22 (c) The department or the unified program agency
23 may request from any generator, and the generator shall
24 provide within 30 days from the date of the request, a
25 copy of the generator's review and plan or report. The
26 department or the unified program agency may evaluate
27 any of those documents submitted to the department or
28 the unified program agency to determine whether it
29 satisfies the requirements of this article.

30 (d) (1) If the department or the unified program
31 agency determines that a generator has not completed
32 the review and plan in the manner required by Section
33 25244.19, or the report in the manner required by Section
34 25244.20, the department or the unified program agency
35 shall provide the generator with a notice of
36 noncompliance, specifying the deficiencies in the review
37 and plan or report identified by the department. If the
38 department or the unified program agency finds that the
39 review and plan does not comply with Section 25244.19,
40 the department or the unified program agency shall

1 consider the review and plan to be incomplete. A
2 generator shall file a revised review and plan or report
3 correcting the deficiencies identified by the department
4 or the unified program agency within 60 days from the
5 date of the receipt of the notice. The department or the
6 unified program agency may grant, in response to a
7 written request from the generator, an extension of the
8 60-day deadline, for cause, except that the department or
9 the unified program agency shall not grant that extension
10 for more than an additional 60 days.

11 (2) If a generator fails to submit a revised review and
12 plan or report complying with the requirements of this
13 article within the required period, or if the department
14 or unified program agency determines that a generator
15 has failed to implement the measures included in the
16 generator's review and plan for reducing the generator's
17 hazardous waste, in accordance with Section 25244.19, the
18 department or the unified program agency may impose
19 civil penalties pursuant to Section 25187, in an amount not
20 to exceed one thousand dollars (\$1,000) for each day the
21 violation of this article continues, notwithstanding
22 Section 25189.2, seek an order directing compliance
23 pursuant to Section 25181, or enter into a consent
24 agreement or a compliance schedule with the generator.

25 (e) If a generator fails to implement a measure
26 specified in the review and plan pursuant to paragraph
27 (5) of subdivision (b) of Section 25244.19, the generator
28 shall not be deemed to be in violation of Section 25244.19
29 for not implementing the selected measure if the
30 generator does both of the following:

31 (1) The generator finds that, upon further analysis or
32 as a result of unexpected consequences, the selected
33 measure is not technically feasible or economically
34 practicable, or if the selected approach has resulted in any
35 of the following:

36 (A) An increase in the generation of hazardous waste.

37 (B) An increase in the release of hazardous chemical
38 contaminants to other media.

39 (C) Adverse impacts on product quality.

1 (D) A significant increase in the risk of an adverse
2 impact to human health or the environment.

3 (2) The generator revises the review and plan to
4 comply with the requirements of Section 25244.19.

5 (f) When taking enforcement action pursuant to this
6 article, the department or the unified program agency
7 shall not judge the appropriateness of any decisions or
8 proposed measures contained in a review and plan or
9 report, but shall only determine whether the review and
10 plan or report is complete, prepared, and implemented
11 in accordance with this article.

12 (g) In addition to the unified program agency, an
13 appropriate local agency that has jurisdiction over a
14 generator's site may request from the generator, and the
15 generator shall provide within 30 days from the date of
16 that request, a copy of the generator's current review and
17 plan and report.

18 SEC. 5. Section 25244.19 of the Health and Safety
19 Code is amended to read:

20 25244.19. (a) On or before September 1, 1991, and
21 every four years thereafter, each generator shall conduct
22 a source reduction evaluation review and plan pursuant
23 to subdivision (b).

24 (b) Except as provided in subdivision (c), the source
25 reduction evaluation review and plan required by
26 subdivision (a) shall be conducted and completed for
27 each site pursuant to the format adopted pursuant to
28 subdivision (a) of Section 25244.16 and shall include, at a
29 minimum, all of the following:

30 (1) The name and location of the site.

31 (2) The SIC Code of the site.

32 (3) Identification of all routinely generated hazardous
33 waste streams that result from ongoing processes or
34 operations that have a yearly volume exceeding 5 percent
35 of the total yearly volume of hazardous waste generated
36 at the site, or, for extremely hazardous waste, 5 percent
37 of the total yearly volume generated at the site. For
38 purposes of this paragraph, a hazardous waste exceeds 5
39 percent of the total yearly volume, and is subject to this

1 article, if it is routinely generated on an ongoing basis and
2 meets any of the following criteria:

3 (A) It is a hazardous waste stream processed in a
4 wastewater treatment unit that discharges to a publicly
5 owned treatment works or under a national pollutant
6 discharge elimination system (NPDES) permit, as
7 specified in the Federal Water Pollution Control Act, as
8 amended (33 U.S.C. Sec. 1251 and following), and its
9 weight before treatment exceeds 5 percent of the weight
10 of the total yearly volume at the site.

11 (B) It is a hazardous waste stream that is not processed
12 in a wastewater treatment unit and its weight exceeds 5
13 percent of the weight of the total yearly volume at the
14 site, less the weight of any hazardous waste stream
15 identified in subparagraph (A).

16 (C) It is a hazardous waste stream that annually
17 weighs 600 kilograms or more and its weight exceeds 5
18 percent of the weight of the total yearly volume at the
19 site, less the weight of any hazardous waste stream
20 identified in subparagraph (A).

21 (D) It is an extremely hazardous waste stream that
22 annually weighs 0.6 kilograms or more and its weight
23 exceeds 5 percent of the weight of the total yearly volume
24 at the site, less the weight of any hazardous waste stream
25 identified in subparagraph (A).

26 (4) For each hazardous waste stream identified in
27 paragraph (3), the review and plan shall include all of the
28 following information:

29 (A) An estimate of the quantity of hazardous waste
30 generated.

31 (B) An evaluation of source reduction approaches
32 available to the generator that are potentially viable. The
33 evaluation shall consider at least all of the following
34 source reduction approaches:

35 (i) Input change.

36 (ii) Operational improvement.

37 (iii) Production process change.

38 (iv) Product reformulation.

39 (5) A specification of, and a rationale for, the
40 technically feasible and economically practicable source

1 reduction measures that will be taken by the generator
2 with respect to each hazardous waste stream identified in
3 paragraph (3). The review and plan shall fully document
4 any statement explaining the generator's rationale for
5 rejecting any available source reduction approach
6 identified in paragraph (4).

7 (6) An evaluation, and, to the extent practicable, a
8 quantification, of the effects of the chosen source
9 reduction method on emissions and discharges to air,
10 water, or land.

11 (7) A timetable for making reasonable and measurable
12 progress towards implementation of the selected source
13 reduction measures specified in paragraph (5).

14 (8) Certification pursuant to subdivision (d).

15 (9) Any generator subject to this article shall include
16 in its source reduction evaluation review and plan
17 four-year numerical goals for reducing the generation of
18 hazardous waste streams through the approaches
19 provided for in subparagraph (B) of paragraph (4), based
20 upon its best estimate of what is achievable in that
21 four-year period, as follows:

22 (A) For those generators and waste streams subject to
23 this program prior to January 1, 1993, the four-year
24 numerical goals shall be included in the plan which is
25 required to be prepared by September 1, 1995, and every
26 four years thereafter, pursuant to subdivision (a).

27 (B) Any generator who is subject to this program
28 pursuant to paragraph (3) of subdivision (d) of Section
29 25244.15, and was not subject to this program before
30 January 1, 1993, shall prepare its source reduction
31 evaluation review and plan, or compliance check list, as
32 provided in paragraph (3) of subdivision (d) of Section
33 25244.15, on September 1, 1993, and every four years
34 thereafter.

35 (10) A summary progress report that briefly
36 summarizes and, to the extent practicable, quantifies, in
37 a manner that is understandable to the general public, the
38 results of implementing the source reduction methods
39 identified in the generator's review and plan for each
40 waste stream addressed by the ~~plan~~ *previous plan over*

1 *the previous four years.* The report shall also include an
2 estimate of the amount of reduction that the generator
3 anticipates will be achieved by the implementation of
4 source reduction methods during the period between the
5 preparation of the review and plan and the preparation
6 of the generator's next review and plan. *Notwithstanding*
7 *any other provision of this section, the summary progress*
8 *report required to be prepared pursuant to this*
9 *paragraph shall be submitted to the department on or*
10 *before September 1, 1999, and every four years*
11 *thereafter.*

12 (c) If a generator owns or operates multiple sites with
13 similar processes, operations, and waste streams, the
14 generator may prepare a single multisite review and plan
15 addressing all of these sites.

16 (d) Every review and plan conducted pursuant to this
17 section shall be submitted by the generator for review
18 and certification by an engineer who is registered as a
19 professional engineer pursuant to Section 6762 of the
20 Business and Professions Code and who has demonstrated
21 expertise in hazardous waste management, by an
22 individual who is responsible for the processes and
23 operations of the site, or by an environmental assessor
24 who is registered pursuant to Section 25570.3 and who has
25 demonstrated expertise in hazardous waste
26 management. The engineer, individual, or
27 environmental assessor shall certify the review and plan
28 only if the review and plan meet all of the following
29 requirements:

30 (1) The review and plan addresses each hazardous
31 waste stream identified pursuant to paragraph (3) of
32 subdivision (b).

33 (2) The review and plan addresses the source
34 reduction approaches specified in subparagraph (B) of
35 paragraph (4) of subdivision (b).

36 (3) The review and plan clearly sets forth the
37 measures to be taken with respect to each hazardous
38 waste stream for which source reduction has been found
39 to be technically feasible and economically practicable,
40 with timetables for making reasonable and measurable

1 progress, and properly documents the rationale for
2 rejecting available source reduction measures.

3 (4) The review and plan does not merely shift
4 hazardous waste from one environmental medium to
5 another environmental medium by increasing emissions
6 or discharges to air, water, or land.

7 (e) At the time a review and plan is submitted to the
8 department or the unified program agency, the
9 generator shall certify that the generator has
10 implemented, is implementing, or will be implementing,
11 the source reduction measures identified in the review
12 and plan in accordance with the implementation
13 schedule contained in the review and plan. A generator
14 may determine not to implement a measure selected in
15 paragraph (5) of subdivision (b) only if the generator
16 determines, upon conducting further analysis or due to
17 unexpected circumstances, that the selected measure is
18 not technically feasible or economically practicable, or if
19 attempts to implement that measure reveal that the
20 measure would result in, or has resulted in, any of the
21 following:

22 (1) An increase in the generation of hazardous waste.

23 (2) An increase in the release of hazardous chemicals
24 to other environmental media.

25 (3) Adverse impacts on product quality.

26 (4) A significant increase in the risk of an adverse
27 impact to human health or the environment.

28 (f) If the generator elects not to implement the review
29 and plan, including, but not limited to, a selected measure
30 pursuant to subdivision (e), the generator shall amend its
31 review and plan to reflect that election and include in the
32 review and plan proper documentation identifying the
33 rationale for that election.

34 SEC. 6. Section 25244.20 of the Health and Safety
35 Code is amended to read:

36 25244.20. (a) On or before September 1, 1991, and
37 every four years thereafter, each generator shall prepare
38 a hazardous waste management performance report
39 documenting hazardous waste management approaches
40 implemented by the generator.

(b) Except as provided in subdivision (d), the hazardous waste management performance report required by subdivision (a) shall be prepared for each site in accordance with the format adopted pursuant to subdivision (a) of Section 25244.16 and shall include all of the following:

(1) The name and location of the site.

(2) The SIC Code for the site.

(3) All of the following information for each waste stream identified pursuant to paragraph (3) of subdivision (b) of Section 25244.19:

(A) An estimate of the quantity of hazardous waste generated and the quantity of hazardous waste managed, both onsite and offsite, during the current reporting year and the baseline year, as specified in subdivision (c).

(B) An abstract for each source reduction, recycling, or treatment technology implemented from the baseline year through the current reporting year, if the reporting year is different from the baseline year.

(C) A description of factors during the current reporting year that have affected hazardous waste generation and onsite and offsite hazardous waste management since the baseline year, including, but not limited to, any of the following:

(i) Changes in business activity.

(ii) Changes in waste classification.

(iii) Natural phenomena.

(iv) Other factors that have affected either the quantity of hazardous waste generated or onsite and offsite hazardous waste management requirements.

(4) The certification of the report pursuant to subdivision (e).

(c) For purposes of subdivision (b), the following definitions apply:

(1) The current reporting year is the calendar year immediately preceding the year in which the report is to be prepared.

(2) The baseline year is either of the following, whichever is applicable:

1 (A) For the initial report, the baseline year is the
2 calendar year selected by the generator for which
3 substantial hazardous waste generation, or onsite or
4 offsite management data is available, prior to 1991, except
5 the generator may select 1990 as the baseline year. If the
6 generator selects 1990 as the baseline year for the initial
7 report, the information required pursuant to paragraph
8 (3) of subdivision (b) for the initial report shall be
9 provided for the 1990 calendar year only.

10 (B) For all subsequent reports, the baseline year is the
11 current reporting year of the immediately preceding
12 report.

13 (d) If a generator owns or operates multiple sites with
14 similar processes, operations, and waste streams, the
15 generator may prepare a single multisite report
16 addressing all of these sites.

17 (e) Every report completed pursuant to this section
18 shall be submitted by the generator for review and
19 certification by an engineer who is registered as a
20 professional engineer pursuant to Section 6762 of the
21 Business and Professions Code and who has demonstrated
22 expertise in hazardous waste management, by an
23 individual who is responsible for the processes and
24 operations of the site, or by an environmental assessor
25 who is registered pursuant to Section 25570.3 and who has
26 demonstrated expertise in hazardous waste
27 management. The engineer, individual, or
28 environmental assessor shall certify the report only if the
29 report identifies factors that affect the generation and
30 onsite and offsite management of hazardous wastes and
31 summarizes the effect of those factors on the generation
32 and onsite and offsite management of hazardous wastes.

33 SEC. 7. Section 25244.21 of the Health and Safety
34 Code is amended to read:

35 25244.21. (a) Every generator shall retain the
36 original of the current review and plan and report, shall
37 maintain a copy of the current review and plan and
38 report at each site, or, for a multisite review and plan or
39 report, at a central location, and upon request, shall make
40 it available to any authorized representative of the

1 department or the unified program agency conducting
2 an inspection pursuant to Section 25185. If a generator
3 fails, within five days, to make available to the inspector
4 the review and plan or report, the department, the
5 unified program agency, or any authorized
6 representative of the department, or of the unified
7 program agency, conducting an inspection pursuant to
8 Section 25185, shall, if appropriate, impose a civil penalty
9 pursuant to Section 25187, in an amount not to exceed one
10 thousand dollars (\$1,000) for each day the violation of this
11 article continues, notwithstanding Section 25189.2.

12 (b) If a generator fails to respond to a request for a
13 copy of its review and plan or report made by the
14 department or a unified program agency pursuant to
15 subdivision (c) of Section 25244.18, or by a local agency
16 pursuant to subdivision (g) of Section 25244.18, within 30
17 days from the date of the request, the department or
18 unified program agency shall, if appropriate, assess a civil
19 penalty pursuant to Section 25187, in an amount not to
20 exceed one thousand dollars (\$1,000) for each day the
21 violation of this article continues, notwithstanding
22 Section 25189.2.

23 (c) (1) Any person may request the department to
24 certify that a generator is in compliance with this article
25 by having the department certify that the generator has
26 properly completed the review and plan and report
27 required pursuant to Sections 25244.19 and 25244.20. The
28 department shall respond within 60 days to a request for
29 certification. Upon receiving a request for certification,
30 the department shall request from the generator, who is
31 the subject of the request, a copy of the generator's
32 review and plan and report, pursuant to subdivision (c)
33 of Section 25244.19, if the department does not have these
34 documents. The department shall forward a copy of the
35 review and plan and report to the person requesting
36 certification, within 10 days from the date that the
37 department receives the request for certification or
38 receives the review and plan and report, whichever is
39 later. The department shall protect trade secrets in
40 accordance with Section 25244.23 in a review and plan or

1 report, requested to be released pursuant to this
2 subdivision.

3 (2) This subdivision does not prohibit any person from
4 directly requesting from a generator a copy of the review
5 and plan or report. Solely for the purposes of responding
6 to a request pursuant to this subdivision, the department
7 shall deem the review and plan or report to be a public
8 record subject to Section 25152.5, and shall act in
9 compliance with that section.

10 SEC. 8. Section 25244.22 of the Health and Safety
11 Code is amended to read:

12 25244.22. Commencing July 1, 1994, and every other
13 year thereafter, the director shall prepare a report of the
14 department's operations and activities in carrying out this
15 article. The director may include this report within the
16 report required pursuant to Section 25171. This report
17 shall include, but not be limited to, all of the following
18 information:

19 (a) An evaluation of hazardous waste source reduction
20 progress in this state.

21 (b) Recommendations for legislation.

22 (c) Identification of any state, federal, or private
23 economic and financial incentives that can best
24 accelerate and maximize the research and development
25 of source reduction and other hazardous waste
26 management technologies and approaches.

27 (d) The status, funding, and results of all research
28 projects.

29 (e) A detailed summary of the extent to which the
30 statewide goal of 5 percent per year reduction of the
31 generation of hazardous wastes, pursuant to subdivision
32 (e) of Section 25244.15, has been attained, and a detailed
33 summary of the extent to which different categories of
34 facilities have attained the numerical goals established
35 pursuant to paragraph (9) of subdivision (b) of Section
36 25244.19. This summary shall include an evaluation by the
37 department of the reasons why these goals have or have
38 not been attained, including an evaluation of the impact
39 of economic growth or decline and changes in production

1 patterns, and a list of appropriate recommendations
2 designed to ensure attainment of these goals.

3 SEC. 9. Section 25244.23 of the Health and Safety
4 Code is amended to read:

5 25244.23. (a) (1) The department shall adopt
6 regulations to ensure that trade secrets designated by a
7 generator in all or a portion of the review and plan or the
8 report required by this article are utilized by the director,
9 the department, the unified program agency, or the
10 appropriate local agency only in connection with the
11 responsibilities of the department pursuant to this article,
12 and that those trade secrets are not otherwise
13 disseminated by the director, the department, the unified
14 program agency, or any authorized representative of the
15 department, or the appropriate local agency, without the
16 consent of the generator.

17 (2) Any information subject to this section shall be
18 made available to governmental agencies for use in
19 making studies and for use in judicial review or
20 enforcement proceedings involving the person
21 furnishing the information.

22 (3) As provided by Section 25159.5, the regulations
23 adopted pursuant to this subdivision shall conform with
24 the corresponding trade secret regulations adopted by
25 the Environmental Protection Agency pursuant to the
26 federal act, except that the regulations adopted by the
27 department may be more stringent or more extensive
28 than the federal trade secret regulations.

29 (4) "Trade secrets," as used in this section, may
30 include, but are not limited to, any formula, plan, pattern,
31 process, tool, mechanism, compound, procedure,
32 production data, or compilation of information that is not
33 patented, that is known only to certain individuals within
34 a commercial concern who are using it to fabricate,
35 produce, or compound an article of trade or a service
36 having commercial value, and that gives its user an
37 opportunity to obtain a business advantage over
38 competitors who do not know or use it.

39 (b) The department, the unified program agency, and
40 the appropriate local agency shall protect from disclosure

1 any trade secret designated by the generator pursuant to
2 this section. The department shall make available
3 information concerning source reduction approaches
4 that have proved successful, and that do not constitute a
5 trade secret, when carrying out subdivision (c) of Section
6 25244.17 and to subdivision (a) of Section 25244.18.

7 (c) This section does not permit a generator to refuse
8 to disclose the information required pursuant to this
9 article to the department, the unified program agency, or
10 the appropriate local agency, an officer or employee of
11 the department, the unified program agency, or the
12 appropriate local agency, in connection with the official
13 duties of that officer or employee under this article.

14 (d) Any officer or employee of the department, the
15 unified program agency, or the appropriate local agency,
16 or any other person, who, because of his or her
17 employment or official position, has possession of, or has
18 access to, confidential information, and who, knowing
19 that disclosure of the information to the general public is
20 prohibited by this section, knowingly and willfully
21 discloses the information in any manner to any person not
22 entitled to receive it, is guilty of a misdemeanor and, upon
23 conviction thereof, shall be punished by imprisonment in
24 the county jail not exceeding six months, by a fine not
25 exceeding one thousand dollars (\$1,000), or by both the
26 fine and imprisonment.

27 SEC. 10. Section 25244.24 of the Health and Safety
28 Code is repealed.

29 SEC. 11. No reimbursement is required by this act
30 pursuant to Section 6 of Article XIII B of the California
31 Constitution because the only costs that may be incurred
32 by a local agency or school district will be incurred
33 because this act creates a new crime or infraction,
34 eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section
36 17556 of the Government Code, or changes the definition
37 of a crime within the meaning of Section 6 of Article
38 XIII B of the California Constitution.

39 Notwithstanding Section 17580 of the Government
40 Code, unless otherwise specified, the provisions of this act

1 shall become operative on the same date that the act
2 takes effect pursuant to the California Constitution.

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